IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2034 OF 2004

Shri Sunethra Rai ...Petitioner

Versus

The Senior Inspector of Police

& Ors. ...Respondents

.....

Mr.S.V.Kotwal for Petitioner.

Mr.R.Y.Mirza, A.P.P. for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

DECEMBER 9, 2004.

P.C.

1. Heard Counsel for the parties.

2. Rule. Rule made returnable forthwith, by consent. Mr.Mirza, A.P.P. waives notice for Respondents.

3. As short question is involved, matter is taken up for final disposal forthwith, by consent.

4. This Petition takes exception to the order passed by the lower Court rejecting the Application preferred by the Petitioner for return of property, which is subject matter of criminal action pending against the Petitioner. Mr.Mirza, learned A.P.P. for the Respondents states on instructions of Mr.P.K.Kadam, P.S.I. attached to Kasturba Marg Police Station that the Department has no objection if the article in question is returned to the Petitioner, provided the Petitioner gives an undertaking before the Trial Court that the said article will be restored to its original position and made over to the Trial Court as and when called upon or such order to be passed by the Trial Court or any other superior Court. The Petitioner is willing to abide by such condition.

5. In the circumstances, this Petition is allowed on condition that the Petitioner shall furnish undertaking as mentioned hereinbefore. Upon furnishing such undertaking before the Trial Court, the Trial Court shall cause to return the

article in question to the Petitioner after preparing the panchnama about the status of the said article.

6. Writ Petition allowed on the above terms. Rule made absolute accordingly.

A.M.KHANWILKAR, J.